

App'n. No. 09/752,557  
Response dated February 20, 2006  
Reply to Office Action of Dec. 1, 2005

## **REMARKS/ARGUMENTS**

### **1. Status of Claims**

- Claims 1-18, 26, 27, and 31 remain in this application.
- Claims 1, 11-13, 16- 18, 26-27, and 31 are currently amended.
- Claims 2, 6, and 14 are currently cancelled.
- Claims 19-25, and 28-30 were previously cancelled.
- Claims 1, 12, 13, 16, 17, 18, 26, 27, and 31 are independent claims.

### **2. Remarks**

The Applicants and their representative would like to thank Examiners Ramirez and Mercader for the courtesy shown to applicant Kenneth Hintz and representative David Grossman during the interview on February 14, 2006. During the interview, the differences between the claimed invention and the cited prior art were discussed. Additionally, the Applicant further explained the main inventive features of the invention. As a result of this discussion, all of the parties to the interview agreed to new language for independent claim 1 that more accurately claimed the invention in light of prior art known to the examiners. Applicants agreed to make similar amendments to the other independent claims.

For clarity, paragraph citations are to the July 4, 2002 publication of the present application, U.S. Patent Application No. 20020097101. This is because although the present application as filed does not have numbered paragraphs, the published version does

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The agreed to amendment to claim 1 includes several changes. A first change includes placing the curvature sensor "external" to a patient. Examples of support for this limitation may be found in paragraphs 36, 54, 56, 68, and 74. These paragraphs discuss applying the curvature sensors to the skin of a patient, often using an adhesive.

A second change includes specifying that the curvature sensor has an output that is "readable by a computer." An example of support for this amendment may be found in paragraph 36 which states that "[c]urvature sensors ... output electronic signals encoding their curvature" and that this "contour data" is provided to a computer.

A third change includes specifying that imageable fiducials are coupled to the first curvature sensor. An example of support for this change may be found in paragraph 37, which states that "one embodiment of the present invention comprises at least one fiducial reference point attached to a first curvature sensor." Additionally, an example of support for the term "imageable," may be found in paragraph 42, where the term "fiducial" is explicitly defined as a "landmark[[s]] recognizable by an imaging system."

The final agreed upon change to Claim 1 included adding a wherein clause specifying that "the computer is configured to relate the curvature of the first curvature sensor to the location of the imageable fiducials." An example of support for this change may be found in paragraph 36, which states that [w]ith at least one fiducial point located in the imaging study data set and on the curvature

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sensor, the computer ... can easily register (i.e. dimensionally correlate) the data set to the real-time surface contour measurements to create a correlated frame of reference for monitoring the position of a tracked instrument with respect to the patient."

Accordingly, claims 12, 13, 16, 17, 18, 26, 27, and 31 are similarly amended to appropriately include the above discussed limitations.

Claim 18 has been amended to include a wherein clause that states that "a computer is configured to use imaging of the imageable fiducials to relate the curvature of the ribbon to the location of imageable fiducials." An example of support for this amendment may be found in paragraph 82.

Claims 2, 6, and 14 are being cancelled because their matter is now included in amended claims 1 and 13 respectively.

#### **4. Conclusion**

For all of the reasons advanced above, Applicants respectfully submit that the application is in condition for allowance and that action is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is encouraged to call Applicants' agents at the telephone number shown below.

The Commissioner is hereby authorized to charge any additional fees, which may be required, or credit any overpayment, to Deposit Account No. 50-3212.

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In the event that an extension of time is required, or may be required in addition to that requested in a petition for an extension for time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 50-3212.

Respectfully submitted,

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